

Pension Benefit Guaranty Corporation

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the plan administrator's finding, it will so notify the plan administrator in writing, and the distribution notice will remain in effect.

(c) *Subsequent insufficiency for benefit liabilities.* When a plan administrator finds that a plan is sufficient for guaranteed benefits but is no longer sufficient for benefit liabilities, the plan administrator must immediately notify the PBGC in writing of this fact, but must continue with the distribution of assets in accordance with § 4041.50.

(d) *Finding by PBGC of subsequent insufficiency.* In any case in which the PBGC finds on its own initiative that a subsequent insufficiency for guaranteed benefits has occurred, paragraph (b)(1) of this section will apply, except that the guaranteed benefits must be revalued as of the date of the PBGC's finding.

(e) *Restrictions upon finding of subsequent insufficiency.* When the plan administrator makes the finding described in paragraph (b) of this section or receives notice that the PBGC has made the finding described in paragraph (d) of this section, the plan administrator is (except to the extent the PBGC otherwise directs) subject to the prohibitions in § 4041.42.

§ 4041.50 Closeout of plan.

If a plan administrator receives a distribution notice from the PBGC pursuant to § 4041.47 and neither the plan administrator nor the PBGC makes the finding described in § 4041.49(b) or (d), the plan administrator must distribute plan assets in accordance with § 4041.28 and file a post-distribution certification in accordance with § 4041.29, except that—

(a) The term “plan benefits” is replaced with “title IV benefits”;

(b) For purposes of applying the distribution deadline in § 4041.28(a)(1)(i), the phrase “after the expiration of the PBGC's 60-day (or extended) review period under § 4041.26(a)” is replaced with “the day on which the plan administrator completes the issuance of the notices of benefit distribution pursuant to § 4041.48(a)”; and

(c) For purposes of applying the distribution deadline in § 4041.28(a)(1)(ii), the phrase “the requirements of

§ 4041.25(c)” is replaced with “the requirements of § 4041.48(d)”.

PART 4041A—TERMINATION OF MULTIEMPLOYER PLANS

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AUTHORITY: 29 U.S.C. 1302(b)(3), 1341a, 1441.

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Subpart A—General Provisions

§ 4041A.1 Purpose and scope.

The purpose of this part is to establish rules for notifying the PBGC of the termination of a multiemployer plan and rules for the administration of multiemployer plans that have terminated by mass withdrawal. Subpart B prescribes the contents of and procedures for filing a Notice of Termination for a multiemployer plan. Subpart C prescribes basic duties of plan sponsors of mass-withdrawal-terminated plans. (Other duties are prescribed in part 4281 of this chapter.) Subpart D contains procedures for closing out sufficient plans. This part applies to terminated multiemployer plans covered by title IV of ERISA but,

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in the case of subparts C and D, only to plans terminated by mass withdrawal under section 4041A(a)(2) of ERISA (including plans created by partition pursuant to section 4233 of ERISA).

§ 4041A.2 Definitions.

The following terms are defined in § 4001.1 of this chapter: annuity, ERISA, insurer, IRS, mass withdrawal, multi-employer plan, nonforfeitable benefit, PBGC, plan, and plan year.

In addition, for purposes of this part: *Available resources* means, for a plan year, available resources as described in section 4245(b)(3) of ERISA.

Benefits subject to reduction means those benefits accrued under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980, that are not eligible for the PBGC's guarantee under section 4022A(b) of ERISA.

Financial assistance means financial assistance from the PBGC under section 4261 of ERISA.

Insolvency benefit level means the greater of the resource benefit level or the benefit level guaranteed by the PBGC for each participant and beneficiary in pay status.

Insolvency year means insolvency year as described in section 4245(b)(4) of ERISA.

Insolvent means that a plan is unable to pay benefits when due during the plan year. A plan terminated by mass withdrawal is not insolvent unless it has been amended to eliminate all benefits that are subject to reduction under section 4281(c) of ERISA, or, in the absence of an amendment, no benefits under the plan are subject to reduction under section 4281(c) of ERISA.

Nonguaranteed benefits means those benefits that are eligible for the PBGC's guarantee under section 4022A(b) of ERISA, but exceed the guarantee limits under section 4022A(c).

Resource benefit level means resource benefit level as described in section 4245(b)(2) of ERISA.

[61 FR 34052, July 1, 1996; 61 FR 36626, July 12, 1996]

§ 4041A.3 Submission of documents.

(a) *Filing date.* Any notice, document, or information required to be filed with

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the PBGC under this part shall be deemed filed on the date of the postmark stamped on the cover in which the notice, document, or information is mailed, provided that the postmark was made by the United States Postal Service and the document was mailed postage prepaid, properly packaged and addressed to the PBGC. If these conditions are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

(b) *Address.* Any notice, document, or information required to be filed with the PBGC under this part shall be sent by mail or submitted by hand during normal working hours to Reports Processing, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

Subpart B—Notice of Termination

§ 4041A.11 Requirement of notice.

(a) *General.* A Notice of Termination shall be filed with the PBGC by a multiemployer plan when the plan has terminated as described in section 4041A(a) of ERISA.

(b) *Who shall file.* The plan sponsor or a duly authorized representative acting on behalf of the plan sponsor shall sign and file the Notice.

(c) *When to file.* (1) For a termination pursuant to a plan amendment, the Notice shall be filed with the PBGC within thirty days after the amendment is adopted or effective, whichever is later.

(2) For a termination that results from a mass withdrawal, the Notice shall be filed with the PBGC within thirty days after the last employer withdrew from the plan or thirty days after the first day of the first plan year for which no employer contributions were required under the plan, whichever is earlier.

(Approved by the Office of Management and Budget under control number 1212-0020)

§ 4041A.12 Contents of notice.

(a) *Information to be contained in notice.* Except to the extent provided in paragraph (d), each Notice shall contain: